

PATENT APPLICATION
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of

Docket No: Q62674

Keiichi HAYASHI

Appln. No.: 09/759,220

Group Art Unit: 2617

Confirmation No.: 9946

Examiner: Julio R. Perez

Filed: January 16, 2001

For: MOBILE COMMUNICATION TERMINAL AND RINGING METHOD THEREOF

REPLY BRIEF PURSUANT TO 37 C.F.R. § 41.41

MAIL STOP APPEAL BRIEF - PATENTS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with the provisions of 37 C.F.R. § 41.41, Appellant respectfully submits this Reply Brief in response to the Examiner's Answer dated April 25, 2007. Entry of this Reply Brief is respectfully requested.

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STATUS OF CLAIMS

Claims 1-3 and 8-10 stand finally rejected under 35 U.S.C. § 102(b) as being anticipated by Lin et al. (U.S. Patent No. 6,366,791).

Claims 4-7 and 11-14 stand finally rejected under 35 U.S.C. § 103(a) as being unpatentable over Lin et al. in view of Yoshino et al. (U.S. Patent No. 6,308,086).

The rejections of claims 1-14 are being appeal

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Appellant requests that the following rejections be reviewed:

1. The rejection of claims 1-3 and 8-10 under 35 U.S.C. § 102(b) as being anticipated by Lin et al. (U.S. Patent No. 6,366,791);
2. The rejection of claims 4-7 and 11-14 under 35 U.S.C. § 103(a) as being unpatentable over Lin et al. in view of Yoshino et al. (U.S. Patent No. 6,308,086).

No other grounds of rejection or objection currently are pending.

This appeal is directed to claims 1-14.

ARGUMENT

1. The Rejection of claims 1-3 and 8-10 under 35 U.S.C. § 102(b) as allegedly being anticipated by Lin et al.

Appellant respectfully disagrees with the Examiner's position in the Answer. The Examiner has failed to address Appellants argument that the prior art downloads tone patterns, as opposed to the actual tone data that is used to generate tones. As mentioned in Appellant's Appeal Brief the tone information/data in Lin that is used to generate the tones is contained in the mobile station 20 and is not fetched from the server. This is different than the claims. In the claimed invention, the tone setting means generates tones by using tone information that has been fetched from the server.

Regarding claims 2, 3, 9 and 10, they should be allowable at least based on their dependence from claims 1 or 8.

2. The Rejection of claims 4-7 and 11-14 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Lin et al. in view of Yoshino et al.

Appellant respectfully disagrees with the Examiner's position in the Answer. The Examiner again fails to address Appellant's argument that because the tone information is already contained in the Lin et al. mobile station and is not fetched from a server, there would be no need to extract audio information from the fetched data and then perform modulation processing. In addition, even if the Yoshino uses the word "tone," that "tone" is not equivalent to the claimed tone.

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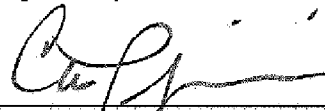
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Further, in Yoshino, since setting of tones is equal to setting of a scale, melody data need not contain information on setting of tones. The claimed invention includes not only melody data (scales) but also tones. Therefore, Yoshino does not make up for the deficiencies of Lin.

CONCLUSION

For the above reasons as well as the reasons set forth in Appeal Brief, Appellant respectfully requests that the Board reverse the Examiner's rejections of all claims on Appeal. An early and favorable decision on the merits of this Appeal is respectfully requested.

Respectfully submitted,



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